

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2008- ____-WS

IN RE: Application of Office of Regulatory)
Staff Requesting the Commission Restrain)
And/or Enjoin Seahorse Investment and/or)
Brett Gaston from Disconnecting Service)
to Residents of Dale Valley Mobile Home)
Park)

EMERGENCY PETITION

Pursuant to 26 S.C. Code Ann. Regs. 103-859 (Supp. 2007), the Office of Regulatory Staff (“ORS”) seeks the issuance of an Order from the Public Service Commission of South Carolina (“Commission”) enjoining Seahorse Investment and/or Brett Gaston (“Seahorse,” “Gaston” or “Respondent”) from disconnecting and/or discontinuing water service or sewerage collection service to customers located in the Dale Valley Mobile Home Park and requiring Respondent to reconnect and maintain service to those customer(s) it has already disconnected until further order of the Commission. ORS seeks this order due to Respondent’s failure to act pursuant to the statutes and regulations governing public utilities.

ORS, by filing this petition, would respectfully show and request of the Commission:

1. That the Commission is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina; that the Commission is responsible for the regulation of water and wastewater utilities operating for compensation as set forth in S.C. Code Ann. §58-5-10 et seq. (Supp. 2007).

2. That the ORS is charged with the duty to “represent the public interest of South Carolina before the Commission” pursuant to S.C. Code Ann. Section 58-4-10, et seq. (Supp. 2007).

3. Upon information and belief, that Seahorse Investment and/or Brett Gaston (“Seahorse,” “Gaston” or “Respondent”) is the owner and/or operator of a public water system providing water service to approximately 66 residential customers in the Dale Valley Mobile Home Park, 7021 Stall Road, North Charleston in Charleston County, South Carolina, and that Respondent owns and/or operates a wastewater collection system in the Dale Valley Mobile Home Park and that Respondent is providing water service and sewer collection service to the residents of Dale Valley Mobile Home Park for compensation.

4. That the water system and wastewater collection system serving the Dale Valley Mobile Home Park was previously a water system and wastewater collection system known as S.D. Utilities, which was owned by William Bartlett and was under the jurisdiction of and regulated by the Commission. Upon information and belief, the utility systems were sold to Respondent in June 2006 as part of the transfer of the Dale Valley Mobile Home Park. The parties did not seek the Commission’s approval for the transfer, and none was obtained.

5. That Respondent and the water system and the sewerage collection system which it operates are not certificated by the Commission as a public utility lawfully authorized to provide, supply, or furnish water service or sewerage collection for compensation in the State of South Carolina. As an uncertificated water and sewerage company, Respondent has never filed any of the documents, bonds, reports, or other instruments required of such companies under South Carolina law with either the ORS or the Commission.

6. That, in providing water service and sewerage collection service to customers in the Dale Valley Mobile Home Park for compensation, Respondent is currently operating as a “public utility” as defined in S.C. Code Ann. §58-5-10(4) (Supp. 2007) in that:

The term “public utility” includes . . . every corporation and person furnishing or supplying in any manner . . . water, sewerage

collection . . . or any of them, to the public, or any portion thereof, for compensation.”

7. That, in providing such service to Dale Valley Mobile Home Park, Respondent is furnishing services to the “public or any portion thereof” in that:

The term “public or any portion thereof” means the public generally, or any limited portion of the public, including a person, private corporation . . . for which the service is performed or to which the commodity is delivered and whenever such corporation or person performs a service or delivers a commodity to the public, or any portion thereof, for which compensation is required such corporation or person is hereby declared to be a public utility subject to the jurisdiction and regulation of the Public Service Commission, the Office of Regulatory Staff, and Articles 1, 3, and 5 of this chapter to the extent of its activities within the State.

S.C. Code Ann. § 58-5-10(5) (Supp. 2007).

8. That while Respondent has not submitted himself to the jurisdiction of the Commission, Respondent is in fact subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. §58-5-210 et seq. (1976).

9. ORS is informed by a customer of Dale Valley Mobile Home Park water and sewerage collection systems that his or her service was disconnected/discontinued by Respondent. One customer submitted a bill which states payments are due on the fifth day of the month and disconnection will follow on the sixth day of the month for nonpayment.

10. Upon information and belief, that Respondent will disconnect/discontinue service to customers who are delinquent on payment of their bills.

11. 26 S.C. Code Ann. Regs. 103-701.1(Supp. 2007) states these regulations:

[S]hall apply to any person, firm, partnership, association, establishment or corporation . . . which is now or may hereafter become engaged as a public utility in the business of furnishing water to any water consumer within the State of South Carolina.

12. 26 S.C. Code Ann. Regs. 103-501.1 (Supp. 2007) states the same as to sewerage collection services.

13. ORS asserts that the failure of Respondent to obtain a Certificate of Public Convenience and Necessity to operate this system and the discontinuance of service to customers for failure to pay rates that have not been approved by the Commission pursuant to S.C. Code Ann. § 58-5-210 (1978) renders any disconnection/discontinuance of water service or sewerage collection service at this time in violation of the Commission's Rules and Regulations.

14. 26 S.C. Code Ann. Regs. 103-859 (Supp. 2007) provides as follows:

A. When it appears to the Office of Regulatory Staff that a utility is planning to disconnect its service to a customer(s) in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission restraining and/or enjoining a utility from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

B. When it appears to the Office of Regulatory Staff that a utility has disconnected a customer's(s') service in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission requiring the utility to reconnect the service and maintain that status quo until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

15. ORS is the proper party to request the issuance of an emergency order under 26 S.C. Code Ann. Regs 103-859 (Supp. 2007).

16. Upon information and belief, Respondent has disconnected customers and is planning and/or preparing to disconnect customers in violation of the Commission's Rules and Regulations. Accordingly, ORS seeks emergency relief from the Commission pursuant to 26 S.C. Code Ann. Regs. 103-859 (Supp. 2007). Specifically, ORS requests that the Commission issue an order restraining and/or enjoining Respondent from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Further, ORS requests that if Respondent has already disconnected/discontinued service to any of the Dale Valley Mobile Home Park water or sewerage collection system customers that the Commission issue an Order directing and requiring Respondent to reconnect service to those customers and to maintain the status quo until further Order of the Commission. In the event that the full Commission cannot meet to address this request, ORS requests that a single Commissioner issue the requested Order.

WHEREFORE, ORS prays that the Honorable Commission:

1. Issue an Order restraining and/or enjoining Respondent from disconnecting service and/or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission;
2. Issue an Order requiring Respondent to reconnect service to any customer to whom Gaston has disconnected/discontinued service and to maintain the status quo until further Order of the Commission; and
3. For other appropriate action which the Commission may deem necessary.

Respectfully Submitted,

Shealy Boland Reibold

Nanette S. Edwards, Esquire

Shealy Boland Reibold, Esquire

Office of Regulatory Staff

1441 Main Street, Suite 300

Columbia, South Carolina 29201

(803) 737-0800

(803) 737-0895

nsedwar@regstaff.sc.gov

sreibol@regstaff.sc.gov

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Columbia, South Carolina